

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Keyne Jean Villert	Team: Team # 3	CCRB Case #: 201402567	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 03/14/2014 11:30 PM	Location of Incident: Intersection of East 169th Street and Fulton Avenue	Precinct: 42	18 Mo. SOL 9/14/2015	EO SOL 9/14/2015	
Date/Time CV Reported Tue, 03/18/2014 10:22 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 03/18/2014 10:22 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Jovanna Martes	24350	953055	PBBX
2. An officer			PBBX
3. SGT Davon Alston	00136	938326	PBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Keith Laliberte	00868	920488	PBBX
2. POF Belkin Garcia	01435	952761	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.POF Jovanna Martes	Abuse: PO Jovanna Martes frisked § 87(2)(b)	
B.SGT Davon Alston	Abuse: Sgt. Davon Alston supervised the frisk of § 87(2)(b)	
C.POF Jovanna Martes	Abuse: PO Jovanna Martes searched the car in which § 87(2)(b) was an occupant.	
D.SGT Davon Alston	Abuse: Sgt. Davon Alston supervised the search of the car in which § 87(2)(b) was an occupant.	
E. An officer	Abuse: An officer searched the car in which § 87(2)(b) was an occupant.	
F.POF Jovanna Martes	Abuse: PO Jovanna Martes threatened to arrest § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

- On March 14, 2014, at approximately 11:33 p.m., § 87(2)(b) was driving just a few feet behind a marked patrol car when it pulled over to the side, thus allowing him to pass it and drive ahead of it. The back license plate on § 87(2)(b)'s vehicle was surrounded and partially covered by a dealership frame. At that point, the patrol car pulled § 87(2)(b) over at the intersection of East 169th Street and Fulton Avenue in the Bronx. Three officers, identified via investigation as PO Jovanna Martes, PO Belkin Garcia, and Sgt. Davon Alston, each from Patrol Borough Bronx, exited the patrol car and approached § 87(2)(b)'s vehicle. § 87(2)(b) alleged that an unidentified fourth officer, PO1, was present at the time of the incident. § 87(2)(b) described PO1 as a uniformed white man in his forties who is approximately 5'11" tall, weighs approximately 175 pounds, and has short brown hair. PO Martes eventually informed § 87(2)(b) that he tailgated her and allegedly ordered him to exit his vehicle. § 87(2)(b) claimed that he complied with the order and that PO Martes then frisked him (**Allegations A and B**). § 87(2)(b) further alleged that PO Martes and PO1 then searched his vehicle (**Allegations C, D, and E**). Thereafter, PO Martes returned to the patrol car with the driver's license and vehicle registration of § 87(2)(b). PO Martes later walked back to § 87(2)(b) and issued him a summons for having a plate cover. At that point, § 87(2)(b) asked PO Martes and PO Garcia for their shield numbers. PO Martes replied that the requested information was listed on the summons and also pointed at her shield, whereas PO Garcia only pointed at her shield. Neither PO Martes nor PO Garcia verbally provided their shield numbers. § 87(2)(b) claimed that he then attempted to exit his vehicle to request the shield numbers of Sgt. Alston and PO1 when PO Martes stated to him, "If you step out of your vehicle, I'm going to arrest you" (**Allegation F**). § 87(2)(g), § 87(4-b)

Mediation, Civil and Criminal Histories

- Although § 87(2)(b) agreed to mediate this case, his subsequent photo array viewing (encl. D4-D15) did not conclusively identify each of the subject officers, § 87(2)(g)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- As of July 22, 2014, approximately one month following the expiration of the filing deadline, § 87(2)(b) has not filed a notice of claim with the City of New York in regard to this incident (encl. L). On January 12, 2015, the undersigned investigator submitted to the New York City Office of the Comptroller a new inquiry on the status of any potential notice of claim filed in regard to this incident. To date, no response has been received and any such response will be added to the case file upon its receipt.

Civilian and Officer CCRB Histories

- There are no substantiated CCRB allegations against PO Martes, who has been a member of the service for two years. Sgt. Alston, who has been a member of the service for nine years, was previously found by the CCRB to have made a retaliatory arrest. The CCRB recommended that Sgt. Alston receive charges; however, the NYPD's decision in regard to that allegation is still pending. § 87(2)(b)

Potential Issues

- No significant issues were encountered or identified over the span of this investigation.

Police Document

- The summons, issued by PO Martes, indicates that § 87(2)(b) was charged with having a plate cover under New York State Vehicular Traffic Law § 402.1 which prohibits the covering of license plates with any plastic material. (encl. A44-A45 and E7). As of January 12, 2015, the Office of Court Administration records do not show the aforementioned summons on file (encl. K1). On January 13, 2015, the undersigned investigator called the New York State Department of Motor Vehicles, to inquire about the disposition of said summons, but was unable to speak with a representative.

Findings and Recommendations

Explanation of Subject Officer Identification

PO Martes admitted to stopping § 87(2)(b) and interacting with him throughout the incident. PO Martes and PO Garcia confirmed that Sgt. Alston was present at the time of the incident.

Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A – Abuse of Authority: PO Jovanna Martes frisked § 87(2)(b)

Allegation B – Abuse of Authority: Sgt. Davon Alston supervised the frisk of § 87(2)(b)

Allegation C – Abuse of Authority: PO Jovanna Martes searched the car in which

§ 87(2)(b) was an occupant.

Allegation D – Abuse of Authority: Sgt. Davon Alston supervised the search of the car in which § 87(2)(b) was an occupant.

Allegation F – Abuse of Authority: PO Jovanna Martes threatened to arrest § 87(2)(b)

As detailed below, Sgt. Alston was present during the incident.

§ 87(2)(b) alleged that PO Martes ordered him to exit his vehicle, frisked him, and then searched his vehicle. § 87(2)(b) stated that, after he returned to his vehicle and was issued a summons, he attempted to exit his vehicle and told PO Martes that he was going to retrieve the shield numbers of Sgt. Alston and PO1. § 87(2)(b) alleged that PO Martes then stated to him, “If you step out of your vehicle, I’m going to arrest you” (encl. D2-D3).

PO Martes denied taking any of the above actions; however, she stated that § 87(2)(b) attempted to exit his vehicle while she was seated in her patrol car and was entering his information into an electronic database prior to issuing him the summons. PO Martes stated that she then ordered § 87(2)(b) to return inside his vehicle (encl. E10).

PO Garcia did not recall any of the above alleged actions having taken place (encl. F6). Sgt. Alston did not remember this incident (encl. G5). As mentioned below, a potential additional officer at the scene could not be identified.

§ 87(2)(g)

Allegation E – Abuse of Authority: An officer searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(b) alleged that PO1 searched his vehicle at the same time as PO Martes allegedly searched it (encl. D2-D3). § 87(2)(b) viewed a photo array and identified Sgt. Keith Laliberte, from Patrol Borough Bronx, as possibly being PO1 (encl. D4).

PO Martes denied that another officer, in addition to herself and Sgt. Alston, was present at the scene (encl. E10). PO Garcia did not recall another officer, in addition to herself, Sgt. Alston, and PO Martes, as being present at the scene (encl. F6). Sgt. Alston did not remember the incident (encl. G5). Sgt. Laliberte was nevertheless interviewed and denied working at the time of the incident.

The Roll Call for the day of the incident lists Sgt. Laliberte as on-duty at the time of the incident. However, Sgt. Laliberte's memo book entries for the day of the incident indicate that he was not working at the time of the incident, and had instead worked during an earlier tour (encl. I1-I3 and H1-H2). § 87(2)(b)'s description of the unidentified officer closely matches Sgt. Laliberte. The Roll Call does not list any additional officer who closely matches the description of PO1.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: 3

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date